

UNITED STATES DISTRICT COURT

for the

Northern District of Iowa

UNITED STATES OF AMERICA,

Plaintiff

v.

\$28,270 IN US CURRENCY, AND
\$130,000 IN US CURRENCY,

Defendant

Civil Action No. 22-CV-115-CJW-MAR

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

☐ the plaintiff (*name*) _____ recover from the
defendant (*name*) _____ the amount of
_____ dollars (\$ _____), which includes prejudgment
interest at the rate of _____ %, plus post judgment interest at the rate of _____ % per annum, along with costs.

☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (*name*) _____
_____ recover costs from the plaintiff (*name*) _____
_____.

☒ other: Judgment is entered in accordance with attached Default Judgment Order

_____.

This action was (*check one*):

☐ tried by a jury with Judge _____ presiding, and the jury has
rendered a verdict.

☐ tried by Judge _____ without a jury and the above decision
was reached.

☒ decided by Judge C. J. Williams on a motion for Default Judgment

_____.

Date: 4/12/2023

PAUL DE YOUNG, CLERK OF COURT

APPROVED AS TO FORM:

By: /s/ des, Deputy Clerk

Signature of Clerk or Deputy Clerk



C. J. Williams
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TWENTY-EIGHT THOUSAND TWO
HUNDRED AND SEVENTY
DOLLARS (\$28,270) IN UNITED
STATES CURRENCY, AND ONE
HUNDRED THIRTY THOUSAND
DOLLARS (\$130,000) IN UNITED
STATES CURRENCY,

Defendants.

No. 22-CV-115 CJW-MAR

ORDER

This matter is before the Court on plaintiff's Motion for Default Judgment as to Terry Howard, Nichole Messerschmitt, Kain Cortez, and the defendant property. (Doc. 15). For the following reasons, the Court grants plaintiff's motion and enters default judgment in favor of the United States of America, against Terry Howard, Nichole Messerschmitt, Kain Cortez, and the defendant property: Twenty-Eight Thousand Two Hundred and Seventy Dollars (\$28,270) in United States Currency, and One Hundred Thirty Thousand Dollars (\$130,000) in United States Currency. FED. R. CIV. P. 55, 58.

1. A Verified Complaint for Forfeiture *in Rem* was filed on September 26, 2022. The United States seeks forfeiture of the defendant property pursuant to Title 21, United States Code, Section 881. (Doc. 1).

2. On October 7, 2022, and continuing through November 5, 2022, notice of this forfeiture action was advertised on www.forfeiture.gov, the official federal government website for forfeiture. (Doc. 5).

3. On October 6, 2022, a Notice of Complaint for Forfeiture and a copy of the Complaint for Forfeiture *in Rem*, were sent by certified mail, return receipt to Nichole Messerschmitt. The paperwork was signed for on October 20, 2022. (Doc. 3).

4. Nichole Messerschmitt has failed to timely claim, answer or otherwise defend this action after notice was provided pursuant to Rule G of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure.

5. Plaintiff's Motion for Default Entry against Nichole Messerschmitt was granted, and the Default Entry was entered by the Clerk of Court on January 10, 2023, against Nichole Messerschmitt. (Doc. 13).

6. On October 6, 2022, a Notice of Complaint for Forfeiture and a copy of the Complaint for Forfeiture *in Rem*, were sent by certified mail, return receipt to Terry Howard. The paperwork was delivered on October 17, 2022. (Doc. 6).

7. Terry Howard has failed to timely claim, answer or otherwise defend this action after notice was provided pursuant to Rule G of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure.

8. Plaintiff's Motion for Default Entry against Terry Howard was granted, and the Default Entry was entered by the Clerk of Court on January 10, 2023, against Terry Howard. (Doc. 12).

9. On October 6, 2022, a Notice of Complaint for Forfeiture and a copy of the Complaint for Forfeiture *in Rem*, were sent by certified mail, return receipt to Kain Cortez, c/o Chad Frese, Kaplan & Frese LLP. The paperwork was signed for on October 11, 2022. (Doc. 4).

10. Kain Cortez has failed to timely claim, answer or otherwise defend this action after notice was provided pursuant to Rule G of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure.

11. Plaintiff's Motion for Default Entry against Kain Cortez was granted, and the Default Entry was entered by the Clerk of Court on January 10, 2023, against Kain Cortez. (Doc. 14).

12. Plaintiff's Motion for Default Entry against Defendant Property was granted, and Default Entry was entered by the Clerk of Court on January 10, 2023, against defendant property: Twenty-Eight Thousand Two Hundred and Seventy Dollars (\$28,270) in United States Currency, and One Hundred Thirty Thousand Dollars (\$130,000) in United States Currency. (Doc. 11).

IT IS HEREBY ORDERED:

1. Plaintiff's Motion for Default Judgment (Doc. 15) is hereby granted in this forfeiture action against Terry Howard, Nichole Messerschmitt, Kain Cortez, and the defendant property: Twenty-Eight Thousand Two Hundred and Seventy Dollars (\$28,270) in United States Currency, and One Hundred Thirty Thousand Dollars (\$130,000) in United States Currency.

2. Any right, title or interest held by Terry Howard, Nichole Messerschmitt, Kain Cortez or any others in the defendant property is hereby forever barred and foreclosed.

3. Having adjudicated all interests through notice and publication, the defendant property: Twenty-Eight Thousand Two Hundred and Seventy Dollars (\$28,270) in United States Currency, and One Hundred Thirty Thousand Dollars (\$130,000) in United States Currency, is forfeited to the United States and all right, title

and interest vests in the United States and no one shall have an interest in the defendant property: Twenty-Eight Thousand Two Hundred and Seventy Dollars (\$28,270) in United States Currency, and One Hundred Thirty Thousand Dollars (\$130,000) in United States Currency.

4. The Federal Bureau of Investigation may dispose of the defendant property: Twenty-Eight Thousand Two Hundred and Seventy Dollars (\$28,270) in United States Currency, and One Hundred Thirty Thousand Dollars (\$130,000) in United States Currency, in accordance with the law and procedures governing such disposition.

IT IS SO ORDERED this 12th day of April, 2023.



C.J. Williams
United States District Judge
Northern District of Iowa